Page 1 of 2

# EXECUTIVE SUMMARY - ENFORCEMENT MATTER DOCKET NO.: 2008-0059-MLM-E TCEQ ID: RN104913702 CASE NO.: 35200 RESPONDENT NAME: JEFF DUTTON DBA DUTTON CATTLE COMPANY

ORDER TYPE:								
1660 AGREED ORDER	FINDINGS AGREED ORDER	FINDINGS ORDER FOLLOWING SOAH HEARING						
X FINDINGS DEFAULT ORDER SHUTDOWN ORDER IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER								
_AMENDED ORDEREMERGENCY ORDER								
CASE TYPE:								
X AIR X MULTI-MEDIA (check all that apply) X INDUSTRIAL AND HAZARDOUS WASTE								
PUBLIC WATER SUPPLY	PETROLEUM STORAGE TANKS	OCCUPATIONAL CERTIFICATION						
X WATER QUALITY	SEWAGE SLUDGE	UNDERGROUND INJECTION CONTROL						
MUNICIPAL SOLID WASTE	RADIOACTIVE WASTE	DRY CLEANER REGISTRATION						
SITE WHERE VIOLATION(S) OCCURRED: 12708 Ten Mile Road, Mason County  TYPE OF OPERATION: Animal feeding operation  SMALL BUSINESS: X Yes No  OTHER SIGNIFICANT MATTERS: Two complaints were received, alleging odors related to disposal of dead animals, cattle pens, manure, and incomplete control structures. There is no record of additional pending enforcement actions regarding this facility location.  INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.  COMMENTS RECEIVED: The Texas Register comment period expired October 20, 2008. No comments were received.  CONTACTS AND MAILING LIST:  TCEQ Attorney: Mr. Barham A. Richard, Litigation Division, MC 175, (512) 239-0107  Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0107  TCEQ Enforcement Coordinator: Ms. Merilee Hupp, Water Enforcement Section, MC 169, (512) 239-4490  TCEQ Regional Contact: Mr. Mark Newman, San Angelo Regional Office, MC R-8, (325) 655-9479  Respondent: Mr. Jeff Dutton, Dutton Cattle Company, P.O. Box 1376, Mason, Texas 76856  Respondent's Attorney: Not represented by counsel on this enforcement matter.								

# RESPONDENT NAME: JEFF DUTTON DOCKET NO.: 2008-0059-MLM-E

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation:	Total Assessed: \$9,975	Corrective Action(s) Taken:
X Complaint Routine Enforcement Follow-up Records Review	Total Deferred: \$0 Expedited Settlement Financial Inability to Pay SEP Conditional Offset	The ED recognizes that the Respondent ceased operating the Plant on December 15, 2007.
Date of Complaints Relating to this Case: October 10, 2007	Total Due to General Revenue: \$9,975	
Dates of Investigation Relating to this Case: November 8 and 9, 2007	This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.	
Date of NOE Relating to this Case: November 30, 2007	Site Compliance History Classification   High X Average Poor	
Background Facts: The EDPRP was filed May 13, 2008, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail,	Person Compliance History Classification High X Average Poor	
postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on May 29, 2008. The Respondent failed to answer the EDPRP, failed to request a hearing,	Major Source:Yes _X_No	
and failed to schedule a settlement conference.	Applicable Penalty Policy: September 2002	
Current Compliance Status:  The Respondent no longer operates the Plant.		
MLM:  1. Failed to have a rain gauge installed on site [30 Tex. ADMIN. CODE § 321.47(e)(5)].		
2. Failed to maintain a permanent pond marker in the retention control structure ("RCS") [30 Tex. ADMIN. CODE § 321.47(e)(6)].		
3. Failed to ensure that the pond liners were protected from animals by fences or other protective devices [30 Tex. ADMIN. CODE § 321.47(e)(7)].		
4. Failed to ensure that all construction and design of the RCS, including embankments and liners, were certified by a licensed Texas professional engineer [30 Tex. ADMIN. CODE §§ 321.47(d)(3) and (5) and 321.38(e)(2)		
5. Failed to equip the RCS with an irrigation, evaporation, or liquid removal system capable of dewatering the RCS [30 Tex. ADMIN. CODE § 321.47(d)(8)].		
6. Failed to properly dispose of industrial solid waste [30 Tex. ADMIN. CODE § 335.4].		
7. Failed to prevent the outdoor burning of waste [30 Tex. ADMIN.		

#### Penalty Calculation Worksheet (PCW) PCW Revision November 6, 2007 Policy Revision 2 (September 2002) 3-Dec-2007 Assigned PCW 7-Jan-2008 Screening 7-Jan-2008 **EPA** Due RESPONDENT/FACILITY INFORMATION Respondent Reg. Ent. Ref. No. RN104913702 Facility/Site Region 8-San Angelo Major/Minor Source Minor CASE INFORMATION Enf./Case ID No. 35200 No. of Violations 7 Docket No. 2008-0059-MLM-E Order Type 1660 Enf. Coordinator Merrilee Hupp Media Program(s) Water Quality Multi-Media Air and Industrial Waste EC's Team Enforcement Team 1 Maximum \$10,000 Admin. Penalty \$ Limit Minimum Penalty Calculation Section \$9,500 TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 ADJUSTMENTS (+/-) TO SUBTOTAL 1 Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage. \$475 Subtotals 2, 3, & 7 Compliance History 5% Enhancement Notes Respondent received one NOV for same or similar violations. 0% Enhancement Subtotal 4 \$0 Culpability No The Respondent does not meet the culpability criteria. Notes \$0 Good Faith Effort to Comply 0% Reduction Subtotal 5 NOV to EDPRP/Settlement Offer Before NOV Extraordinary Ordinan (mark with x) N/A The Respondent does not meet the good faith criteria. Notes Subtotal 6 \$0 0% Enhancement\* Total EB Amounts Capped at the Total EB \$ Amount \$76 Approx. Cost of Compliance \$9,975 Final Subtotal SUM OF SUBTOTALS 1-7 OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment \$0 Reduces or enhances the Final Subtotal by the indicated percentage Notes Final Penalty Amount \$9,975 \$9,975 STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

Reduction

0%

Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY

Adjustment

\$0

\$9.975

Screening Date 7-Jan-2008

Docket No. 2008-0059-MLM-E

PCW

Respondent Jeff Dutton dba Dutton Cattle Company

Case ID No. 35200

Reg. Ent. Reference No. RN104913702 Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

Policy Revision 2 (September 2002) PCW Revision November 6, 2007

Composer	y Site Enhancement (Subtotal 2) Number of	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	0	0%
	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
Orders	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission		0%
Judgments	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
and Consent Decrees	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	.0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
Addito	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
,,	Plea	se Enter Yes or No	
	Environmental management systems in place for one year or more	No	0%
Other	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
Oulei	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%
	Adjustment P	ercentage (Su	ıbtotal 2
Violator (Su		ercentage (Su	ıbtotal 3
ance Histor	y Person Classification (Subtotal 7)		
Average F		ercentage (Su	ıbtotal 7
iance Histor			
Compliance History Notes	Respondent received one NOV for same or similar violations.		

Screening Date 7	7-Jan-2008	Dock	et No. 2008-0059-MLM-E	PCW
		utton Cattle Company		Policy Revision 2 (September 2002)
Case ID No. 3				PCW Revision November 6, 2007
Reg. Ent. Reference No. [ Media [Statute] \				***************************************
Enf. Coordinator				
Violation Number	1	•		
Rule Cite(s)		30 Tex. Admin. Cod	e § 321.47(e)(5)	
Violation Description	Failed to have a	rain gauge installed on site conducted Novembe	, as documented during an inve er 8 and 9, 2007.	stigation
			Bas	e Penalty \$10,000
>> Environmental, Property ar	nd Human Hea	olth Matrix		Account of
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Release OR Actual	Major Mo	oderate Minor		
Potential		X	Percent 5%	
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Matrix Failure to he	ave a rain gauge	would prevent the Responde	ent from determining when to puge of pollutants which will or cou	mp the
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			Adjustment	\$9,500
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mark only one	quarterly		Violation Bas	e Penalty \$500
with an x	semiannual			
	annual			
. 1	single event	<u> X</u>		
		One single event is recom-	mended.	
			And the second s	
Economic Benefit (EB) for this	s violation	Ping State of the Control of the Con	Statutory Limit Te	st
Estimated	EB Amount	\$0	Violation Final Pen	alty Total \$525
		This violation Final	I Assessed Penalty (adjusted t	for limits) \$525
		44	Marie de la companya	ar format de la companya de la comp

Reg. Ent. Reference No Media Violation No	Water Quality	ogungsog i spolsky mandfallen (20)	u ku matangan giyan yaratni ka 10 Terber Membe	turar Laren	aa 24 Oo Musika (* 26 oo ka ta	Percent Interest	Years of Depreciation
						5.0	15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or \$						
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)			1111,000	0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	// n/a ⊫	\$0
Training/Sampling			·	0.0	\$0	指标 In/a 微数是	\$0
Remediation/Disposal				0.0	\$0	id to a n/a	\$0
Permit Costs				0.0	\$0	n/a wai n/a	. \$0 .
Other (as needed)	\$50 Estimated co				\$0 required is the inve	n/a stigation date and the	\$0
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Screening Date	The second secon	∕ILM-E <b>PCW</b>
	Jeff Dutton dba Dutton Cattle Company	Policy Revision 2 (September 2002)
Case ID No.		PCW Revision November 6, 2007
Reg. Ent. Reference No.		
Media [Statute]		
Enf. Coordinator Violation Number	werniee Hupp	
Rule Cite(s)		
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	Failed to maintain a permanent pond marker in the RCS, as docu	monted during an
Violation Description	investigation conducted November 8 and 9, 2007	
		Base Penalty \$10,000
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Potential	X Percent	5%
>>Programmatic Matrix		· · ·
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	Percent	0%
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IVIALTIX and exposing	re a pond marker may result in insufficient capacity of the RCS, resunuman health or the environment to insignificant amounts of pollutar	its as a result of this
Notes Notes	violation.	TOTAL A STREET WAS A STREET AND
	Adjustment	\$9,500
		\$500
Violation Events		
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***************************************	monthly	lation Base Penalty \$500
. mark only one with an x	quarterly Vio	lation Base Penalty \$500
	annual	
	single event x	
	One single event is recommended.	
	Cite dirigio eventale recommendate	
E	WAIGHAR	Limit Test
Economic Benefit (EB) for the		
Estimated	EB Amount \$2 Violation	Final Penalty Total \$525
	This violation Final Assessed Penalty	(adjusted for limits) \$525

	E	conomic l	3enefit W	orks	sheet		
Respondent	Jeff Dutton dba	Dutton Cattle Com	pany	. Add to med	ing programme and the second s	an additional territoria and an analysis of the state of the companies	and the continuence of the Park and the contract of the Con-
Case ID No.							•
Reg. Ent. Reference No.	1						
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Violation No.	•					Percent Interest	Depreciation
Violation No.	fagana		VERTEN STATE OF STATE		STANTENEN STANT	5.0	
						<del> </del>	EB Amount
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or \$					Distriction in wi	
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Delayed Costs						하는 사람들은 함께 다른	<b>有其中国特殊</b>
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	<u></u>			0.0	\$0	\$0 \$2	\$0
Engineering/construction	\$350	8-Nov-2007	15-Dec-2007	0.1	\$0	T	\$2
Land			. , , , , , , , , , , , , , , , , , , ,	0.0	\$0 \$0	n/a n/a	\$0 \$0
Record Keeping System				0.0	\$0 \$0	n/a.	\$0 \$0
Training/Sampling				0.0	\$0 \$0	iva n/a	\$0 \$0
Remediation/Disposal	<u> </u>			0.0	\$0	n/a	\$0 \$0
Permit Costs Other (as needed)	<u> </u>		<del></del>	0.0	\$0 \$0	n/a	\$0 \$0
Notes for DELAYED costs	t	he investigation da	te and final date i	s when tl	he cattle were rem	and its placement. E oved from the facility	/.
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Disposal			<u>. :                                     </u>	0.0	\$0	\$0	\$0
Personnel				0.0	\$0 \$0	\$0 \$0	\$0 \$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0 \$0
Supplies/equipment Financial Assurance [2]				0.0	\$0	\$0	\$0 \$0
7.7				0.0	\$0	\$0	
	L	<u> </u>			ΨΟ.		\$0
ONE-TIME avoided costs [3] Other (as needed)		1 2 2 2 2 2 2 2 2 2 2			\$0	\$0	\$0 \$0
Other (as needed)				0.0	\$0	\$0	\$0 \$0
• • •					\$0	\$0	

Number of Violation Events 60 Number of violation days	Screening Date	7-Jan-2008 <b>Docket No.</b> 2008-0059-MLM-E	PCW
Reg. Ent. Reference No. RN104913702 Media [Statute] Water Quality Enf. Coordinator Merilee Hupp Violation Number 3 Rule Cite(s) 30 Tex. Admin. Code § 321.47(e)(7)  Failed to ensure that pond liners are protected from animals by fences or other protective devices, as documented during an investigation conducted November 8 and 9, 2007.  Base Penalty \$10,000  Senvironmental, Property and Human Health Matrix Harm Release Major Moderate Minor OR Actual Potential X Percent 10%  Percent 10%  Percent 0%  Matrix Faisification Major Moderate Minor Percent 0%  Matrix Without protection of the pond liners, human health or the environment could be exposed to significant amounts of pollutants which would not exceed levels protective of human health.  Violation Events  Number of Violation Events 1 60 Number of violation days	Respondent	Jeff Dutton dba Dutton Cattle Company	Policy Revision 2 (September 2002)
Media [Statute] Water Quality Enf. Coordinator Merribe Hupp  Violation Number Rule Cite(s)  30 Tex. Admin. Code § 321.47(e)(7)  Failed to ensure that pond liners are protected from animals by fences or other protective devices, as documented during an investigation conducted November 8 and 9, 2007.  Base Penalty  \$10,000  Servironmental, Property and Human Health Matrix Harm Release Major Moderate Minor OR Actual Potential  Percent 10%  Percent 0%  Matrix Without protection of the pond liners, human health or the environment could be exposed to significant amounts of pollutants which would not exceed levels protective of human health.  Adjustment \$9,000  \$1,000  Violation Events  Number of Violation Events  1 60 Number of violation days			PCW Revision November 6, 2007
Enf. Coordinator Merrilee Hupp Violation Number 3 Rule Cite(s)  30 Tex. Admin. Code § 321.47(e)(7)  Failed to ensure that pond liners are protected from animals by fences or other protective devices, as documented during an investigation conducted November 8 and 9, 2007.  Base Penalty  \$10,000  **Environmental, Property and Human Health Matrix Harm Release Major Moderate Minor Actual Potential X Percent 10%  **Programmatic Matrix Falsification Major Moderate Minor  Percent 0%  **Matrix Notes Without protection of the pond liners, human health or the environment could be exposed to significant amounts of pollutants which would not exceed levels protective of human health.  **Adjustment**  \$9,000  **S1,000  **Violation**  Violation Events 1 60 Number of violation days			
Violation Number Rule Cite(s)  30 Tex. Admin. Code § 321.47(e)(7)  Failed to ensure that pond liners are protected from animals by fences or other protective devices, as documented during an investigation conducted November 8 and 9, 2007.  Base Penalty  \$10,000  **Senvironmental, Property and Human Health Matrix  Harm  Release Major Moderate Minor  Actual  Potential  **X**  Percent 10%  **Programmatic Matrix  Faisification Major Moderate Minor  Percent 0%  **Matrix*  Notes Without protection of the pond liners, human health or the environment could be exposed to significant amounts of pollutants which would not exceed levels protective of human health.  **Senting**  **Adjustment**  \$9,000  **Senting**  **Number of Violation Events**  Number of Violation Events**  Number of Violation Events**  **Number of Violation Even			
Rule Cite(s)  30 Tex. Admin. Code § 321.47(e)(7)  Failed to ensure that pond liners are protected from animals by fences or other protective devices, as documented during an investigation conducted November 8 and 9, 2007.  Base Penalty  \$10,000  **Servironmental, Property and Human Health Matrix    Harm   Harm   Health Matrix   Harm   Hoderate   Minor   Moderate   Minor   Moderate   Minor   Percent   10%    **Programmatic Matrix   Percent   0%    **Matrix   Without protection of the pond liners, human health or the environment could be exposed to significant   amounts of pollutants which would not exceed levels protective of human health.  **Adjustment   \$9,000   \$1,000  **Violation Events   1   60   Number of violation days	Langi di mandidaka di dikabila da di kabila di Abbada da basa da di kabila da kabila da da da da da da da da 🛏		
Failed to ensure that pond liners are protected from animals by fences or other protective devices, as documented during an investigation conducted November 8 and 9, 2007.  Base Penalty \$10,000  Servironmental, Property and Human Health Matrix  Release Major Moderate Minor  Actual Potentia	1 <u> </u>	3	
Violation Description protective devices, as documented during an investigation conducted November 8 and 9, 2007.  Base Penalty \$10,000  >> Environmental, Property and Human Health Matrix  Harm Release Major Moderate Minor Actual X Percent 10%  >> Percent 0%  Matrix Notes Without protection of the pond liners, human health or the environment could be exposed to significant Notes amounts of pollutants which would not exceed levels protective of human health.  Adjustment \$9,000  \$1,000  Violation Events  Number of Violation Events 1 60 Number of violation days	Rule Cite(s)	30 Tex. Admin. Code § 321.47(e)(7)	
Servironmental, Property and Human Health Matrix    Harm   Harm   Harm   Harm   Harm   Harm   Harm   Harm   Harm   Moderate   Minor   Moderate   Minor   Moderate   Minor   Moderate   Minor   Percent   10%	Violation Description	protective devices, as documented during an investigation conducted Novembe 9, 2007.	r 8 and
Harm   Release   Major   Moderate   Minor   Moderate   Minor   Percent   10%		Base	Penalty \$10,000
Harm   Release   Major   Moderate   Minor   Moderate   Minor   Percent   10%	>> Environmental Property a	nd Human Health Matrix	
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Programmatic Matrix  Falsification Major Moderate Minor  Percent 0%  Matrix Notes  Without protection of the pond liners, human health or the environment could be exposed to significant amounts of pollutants which would not exceed levels protective of human health.  **Adjustment**  **Adjustment**  \$9,000  Violation Events  Number of Violation Events  1 60 Number of violation days		Major Moderate Minor	
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Falsification Major Moderate Minor  Percent 0%  Matrix Notes Without protection of the pond liners, human health or the environment could be exposed to significant amounts of pollutants which would not exceed levels protective of human health.  Adjustment \$9,000  \$1,000  Violation Events  Number of Violation Events 1 60 Number of violation days	Potentiai	X Percent 10%	
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Matrix Notes  Ma		Major Moderate Minor	
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\$1,000 Violation Events  Number of Violation Events  60 Number of violation days			ınificant
Violation Events  Number of Violation Events  60  Number of violation days		Adjustment	\$9,000
Violation Events  Number of Violation Events  60  Number of violation days	The second secon		\$1,000
Number of Violation Events 60 Number of violation days			Ψ1,000
daily daily at the second seco	Violation Events		
daily di .			
	Number of Viol	ation Events 60 Number of violation days	
mark only one vith an x single event Single event	with an x	monthly quarterly x Violation Base semiannual annual	Penalty \$1,000
One quarterly event is recommended from the November 8, 2007 investigation date to December 15, 2007 when compliance was achieved by the removal of cattle from the facility.	One quarterly 20	event is recommended from the November 8, 2007 investigation date to Decem 2007 when compliance was achieved by the removal of cattle from the facility.	ber 15,
Economic Benefit (EB) for this violation Statutory Limit Test	Economic Benefit (EB) for thi	s violation Statutory Limit Test	
	5-70-00-00-00-00-00-00-00-00-00-00-00-00-		
Estimated EB Amount \$11 Violation Final Penalty Total \$1,050	Estimated	ED AMOUNT   VIOLATION FINAL PENAL	ι <b>y</b> 1 ο ια ι
This violation Final Assessed Penalty (adjusted for limits) \$1,050	1		04 050

	E	conomic I	Benefit W	orks	sheet		
		Dutton Cattle Com	pany	Sin Inc. consens	, , and strong about the set added the set of	a 1966, and a single to the following the analysis of the first and a single to the si	Annual to a second second of the distribution
Case ID No.		•					
Reg. Ent. Reference No Media Violation No	Water Quality					Percent Interest	Years of Depreciation
Violation						5.0	15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description		Date Nequired	, iliai Pac				
ingen styre in deut regeldet in der in der die Sert batte in der beforden in der beforden in der beforden in d Der der der der der der der der der der d	ing ming langual special and the second and evidence of	a talia Kabada a tarah wasan 1999	The state of a secondary of the solution of a secondary of the secondary o	S. Martin Branch St.		The state of the s	The state of the second
Delayed Costs							
Equipment	\$1,500	8-Nov-2007	15-Dec-2007	0.1	\$1	\$10	\$11
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0,0	\$0	/ n/a	\$0
Record Keeping System				0.0	\$0	ran in/amia	\$0
Training/Sampling				0.0	\$0	-x: n/a :	\$0
Remediation/Disposal				0.0	\$0	n/a 🗸 📜	. \$0
Permit Costs	gandhe iyar			0.0	\$0	:n/a > :::	\$0
Other (as needed)				0.0	\$0	n/a	\$0
Notes for DELAYED costs  Avoided Costs	require	ed is the investigation	on date and final o	date is w	then the cattle wer	ctive device around the removed from the one-time avoided c	facility.
Disposal	P. M., 1991 - 1991 - 1992 - 1992 - 1992 - 1992 - 1992 - 1992 - 1992 - 1992 - 1992 - 1992 - 1992 - 1992 - 1992	famores vivina i	- Laft samfi	0.0	\$0	\$0	\$0
Personnel	1			0.0	\$0	\$0 \$0	\$0 \$0
Inspection/Reporting/Sampling				0.0	\$0		\$0
Supplies/equipment				0.0	\$0	\$0	\$0 \$0
Financial Assurance [2]				0.0	\$0	\$0	
ONE-TIME avoided costs [3]				0.0	\$0 \$0	\$0 \$0	\$0 \$0
Other (as needed)			<del></del>	0.0	] 50	<u> </u>	20
Notes for AVOIDED costs							
Approx. Cost of Compliance		\$1,500			TOTAL		\$11

Screening Date 7-Jan-2008 Docket No. 2008-0059-MLM-E	PCW
	Policy Revision 2 (September 2002)
Case ID No. 35200 Reg. Ent. Reference No. RN104913702	PCW Revision November 6, 2007
Media [Statute] Water Quality	
Enf. Coordinator Merrilee Hupp	
Violation Number 4	
Rule Cite(s) 30 Tex. Admin. Code §§ 321.47(d)(3) and (5) and 321.38(e)(2)	1.00
Failed to ensure that all construction and design of the RCS, including embankme and liners, are certified by a licensed Texas professional engineer. Specifically, do an investigation conducted November 8 and 9, 2007, the Respondent presented a from a consulting firm for liner certification to the investigator, but the Respondent on not produce a liner certification.	uring a bill
Base Pe	nalty \$10,000
>> Environmental, Property and Human Health Matrix	
Harm	•
Release Major Moderate Minor OR Actual	
Potential Percent 0%	
>>Programmatic Matrix	The state of the s
Falsification Major Moderate Minor  Percent 10%	
Matrix Matrix	
Notes 100 percent of the rule requirement was not met.	
	<u></u>
Adjustment \$	9,000
	\$1,000
	Ψ1,000
Violation Events	
Number of Violation Events 1 60 Number of violation days	
Trained of violation 2 voite	·
daily daily	
mark only one   quarterly   Violation Base Pe	nalty \$1,000
mark only one quarterly. Violation Base Pe	11aity 4.1,000
annual :	
single event x	
One event is recommended.	
Economic Benefit (EB) for this violation Statutory Limit Test	
Section 1.	T_4_1
Estimated EB Amount \$35 Violation Final Penalty	Total \$1,050
This violation Final Assessed Penalty (adjusted for li	mits) \$1,050

	<b>E</b>	conomic	Benefit W	orks	sheet		
Respondent	بفقائب تطبعت ببلا لأبستها مشير	Dutton Cattle Com	takka taki tali sa tilik sertia di 1800-	eras abail a		ingi, dhelindar Pridish islai se sae s	kalta lahin misaka di kahapa kasala kahapa dahari
Case ID No		Dutton Cattle Con	ipuny				
Reg. Ent. Reference No						g jeg a do most objekt jeg gregorije og greg	Years of
	Water Quality					Percent Interest	Depreciation
Violation No	. 4	Jenningstradistration in the later time of the fillers	poorge reconstructed transport in the Armenia	garing anggan	ny tanàna ny amin'ny amin'ny amin'ny a	il stimatica:	ASIAR PROPERCY CONTRACTOR SERVICE
						5.0	15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or \$			37575			
	1 110 001111123 01 0	de francis adamética el está	CENTROLISCHE LE AVE LEY	d detaile.	iki sishi iyo tatahisi sihotiso o	potenti, il control marchite dell'inter-	and the state of t
Delayed Costs				an result			
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)			1.	0.0	\$0	\$0	\$0
Engineering/construction	\$5,000	8-Nov-2007	15-Dec-2007	0.1	\$2	\$34	\$35
Land				0.0	\$0	∴ in/a	\$0
Record Keeping System				0.0	\$0	√a en/a. ✓ F	\$0
Training/Sampling				0.0	\$0	n/a ⋅ t	\$0
Remediation/Disposal	1			0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	us n/a	\$0
Other (as needed)			<del></del>	0.0	\$0	> ∴ n/a ×	\$0
Notes for DELAYED costs  Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2]			the cattle were	remove	d from the facility.	one-time avoided c \$0 \$0 \$0 \$0 \$0 \$0	
ONE-TIME avoided costs [3]	200 June 200			0.0	\$0	\$0	\$0 .
Other (as needed)			11.	0.0	\$0	\$0	\$0
Notes for AVOIDED costs							
Approx. Cost of Compliance		\$5,000			TOTAL		\$35

Screening Date	V - AMAZON II I - AMAZON II -	⊩ P€W
	Jeff Dutton dba Dutton Cattle Company	Policy Revision 2 (September 2002)
Case ID No.		PCW Revision November 6, 2007
Reg. Ent. Reference No.		
Media [Statute] Enf. Coordinator		
Violation Number	меннее нирр 5	·
Rule Cite(s)		
	30 Tex. Admin. Code § 321.47(d)(8)	
Violation Description	Failed to equip RCS with either irrigation, evaporation, or liquid removal syste capable of dewatering the RCS, as documented during an investigation condu- November 8 and 9, 2007.	ms cted
	Base F	Penalty \$10,000
>> Environmental, Property a	Harm	
Release	Major Moderate Minor	
OR Actual	D	
Potential	x Percent 5%	•
>>Programmatic Matrix		
Falsification	Major Moderate Minor	
	Percent 0%	
Matrix Notes Failure to hav	e equipment to dewater the RCS may result in a discharge of pollutants, exposing or the environment to insignificant amounts of pollutants as a result of this violation	
	Adjustment	\$9,500  
		\$500
Violation Events		<b>2.4</b> 0.30
Number of Vic	olation Events 1 60 Number of violation days	
mark only one with an x	daily monthly quarterly Violation Base F semiannual single event x	Penalty \$500
	One single event is recommended.	
Economic Benefit (EB) for th	s violation Statutory Limit Test	
Estimated	I EB Amount \$14 Violation Final Penalt	y Total \$525
	32411	
	This violation Final Assessed Penalty (adjusted for	limits) \$525

		conomic l	Benefit W	orks	sheet		
Respondent	and the facility of the state o	Dutton Cattle Com	ewalik librii italili 2000		Land of Landson Madam Files	Dageth Life is the first of the Life at the American of the	la mari i maka Malaka William da
Case ID No.			,,,,,				
Reg. Ent. Reference No.						•	
	Water Quality						Years of
Violation No.	•					Percent Interest	Depreciation
violation no.	o Tomor som properties	almona 151,2 me se com		esterate	HUMBE PRESER		and the same and the same of the same
						5.0	15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or \$						
difference and the first the second of the s							
Delayed Costs	1,7,7,7,7,7,6,0	gregoring byggin	지수 있는 사람들이 되었다.	in el ministra de la compansión de la comp La compansión de la compa		생기는 이는 본 경기를	
Equipment	\$2,000	8-Nov-2007	15-Dec-2007	0.1	\$1	\$14	\$14
Buildings	72,73			0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0,0	\$0	\$0	\$0
Land			·	0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a de la composição d	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	vivi de n/a de se	\$0
Permit Costs				0.0	\$0	> s n/a ≥ s	\$0
Other (as needed)	<del></del>			0.0	\$0	rasia n/a∈ a	\$0
Notes for DELAYED costs  Avoided Costs	jan jang jang jang jang jang jang jang j	nvestigation date, a	nd the final date i	s when t	the cattle were rem	the RCS. Date requinoved from the facilitions.  one-time avoided c	<b>у.</b> 
Disposal	2.20.00.00.00.00	Parent Land Street	Maria de la compansión	0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	197 - 198			0.0	\$0	\$0	\$0
Supplies/equipment		4.4 (1.4)		0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	1 8 80 75 1 4	and the same of th	The second second	0.0	\$0	\$0	\$0
Other (as needed)	1,75,115,115,115			0.0	\$0	\$0.	\$0
Notes for AVOIDED costs							
Approx. Cost of Compliance		\$2,000			TOTAL		\$14

Screening Date	7-Jan-2008 <b>Docket No.</b> 2008-0059-MLM-E	PCW
Respondent	Jeff Dutton dba Dutton Cattle Company	Policy Revision 2 (September 2002)
Case ID No.		PCW Revision November 6, 2007
Reg. Ent. Reference No.		
Media [Statute]		
Enf. Coordinator		
Violation Number	6	<del></del>
Rule Cite(s)	30 Tex. Admin. Code § 335.4	
Violation Description	Failed to properly dispose of industrial solid waste. Specifically, during an conducted November 8 and 9, 2007, seven dead cows were documented areas at the Facility. No cover had been applied to the dead animals, the emitted a strong odor, and many flies were present. Additionally, severa containers, an oil filter, and at least three animal carcasess (one sheep are had been disposed of in a pit northeast of an open trailer at the Facility. The contained the remains of a dead animal.	I in different e carcasses al plastic oil nd two cattle)
		Base Penalty \$10,000
>> Environmental, Property a	nd Human Health Matrix Harm Major Moderate Minor	
OR Actual Potential	Percent 25	5%
>>Programmatic Matrix		
Falsification	Major Moderate Minor Percent (	0%
Matrix Notes Dead anima human hea	als emitting strong odors and attracting flies, as well as discarded oil contair Ith and the environment to significant amounts of pollutants which do not ex protective of human health.	iers expose ceed levels
	Adjustment	\$7,500
		\$2,500
Violation Events		
Number of Vio	olation Events 2 60 Number of violation	ı days
mark only one with an x	daily wonthly x quarterly Violation	Base Penalty \$5,000
	annual single event	
Two monthly	events are recommended from the November 8, 2007 investigation date to 7, 2008 screening date.	the January
Economic Benefit (EB) for th	is violation Statutory Limit	Test
Company of the second s	d EB Amount \$12 Violation Final	Penalty Total \$5,250
	This violation Final Assessed Penalty (adjus	ted for limits) \$5,250

5.0 1		. 35200		pany				
	Media	Water Quality					Percent Interest	Years of Depreciation
Delayed Costs   Equipment							5.0	15
Delayed Costs   Equipment Buildings   0.0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0		Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment Buildings	Item Description	1 No commas or \$						
Equipment Buildings	Delayed Costs							
Other (as needed   Engineering/construction								
Engineering/construction	Buildings							
Land	Other (as needed)							
Record Keeping System Training/Sampling Remediation/Disposal Permit Costs Other (as needed)  Notes for DELAYED costs  Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3] Other (as needed)  O.0 \$0	Engineering/construction							
Training/Sampling   Remediation/Disposal   \$500   8-Nov-2007   6-May-2008   0.5   \$12   17/2   \$12   \$12   \$12   \$12   \$12   \$13   \$13   \$13   \$14   \$15	Land							
Soo   S-Nov-2007   G-May-2008   0.5   \$12	Record Keeping System							
Permit Costs Other (as needed)  Notes for DELAYED costs  Notes for DELAYED costs  Avoided Costs  Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3] Other (as needed)  Disposal Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3] Other (as needed)  Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3] Other (as needed)  Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3] Other (as needed)  Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3] Other (as needed)								
Notes for DELAYED costs  Notes for DELAYED costs  Avoided Costs  Disposal Personnel Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3] Other (as needed)  Other (as needed)  Disposal Personnel O.0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0		\$500	8-Nov-2007	6-May-2008				
Estimated cost of labor, materials, and disposal of animal carcasses and oil containers, including oil filters. Date required is the investigation date. Final date is the follow-up investigation date when no waste or cattle were documented at the facility.  Avoided Costs  Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3] Other (as needed)  Estimated cost of labor, materials, and disposal of animal carcasses and oil containers, including oil filters. Date required is the investigation date when no waste or cattle were documented at the facility.  Avoided Costs  ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)  0.0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0								
Disposal   Personnel							ontainers, including	oii filters. Date
Disposal   Personnel	Notes for DELAYED costs	required is t	he investigation dat	e. Final date is th	e follow	-up investigation o	ate when no waste o	on filters. Date or cattle were
Description			he investigation dat	e. Final date is th docume	e follow nted at t	-up investigation of the facility.	ate when no waste o	or cattle were
Inspection/Reporting/Sampling	Avoided Costs		he investigation dat	e. Final date is th docume	e follow nted at t	up investigation of the facility.	ale when no waste o	or cattle were
	Avoided Costs		he investigation dat	e. Final date is th docume	e follow nted at t ntering	-up investigation of the facility. item (except for \$0	ate when no waste one-time avoided c	or cattle were  osts) \$0 \$0
Financial Assurance [2] ONE-TIME avoided costs [3] Other (as needed)  Other (as needed)  Outher (as needed)	Avoided Costs  Disposal  Personnel		he investigation dat	e. Final date is th docume	e follow nted at t ntering 0.0 0.0	up investigation of the facility. item (except for \$0 \$0	one-time avoided c	or cattle were  osts) \$0 \$0
ONE-TIME avoided costs [3] 0.00 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$	Avoided Costs Disposal Personnel Inspection/Reporting/Sampling		he investigation dat	e. Final date is th docume	nted at to ntering 0.0 0.0 0.0	up investigation of the facility. item (except for \$0 \$0 \$0	one-time avoided c \$0 \$0 \$0 \$0 \$0	osts)  \$0 \$0 \$0 \$0 \$0
Other (as needed) 0.0 \$0 \$0 \$0	Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment		he investigation dat	e. Final date is th docume	ntering 0.0 0.0 0.0 0.0	up investigation of the facility. item (except for \$0 \$0 \$0 \$0 \$0	one-time avoided c \$0 \$0 \$0 \$0 \$0 \$0	osts) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
Notes for AVOIDED costs	Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2]		he investigation dat	e. Final date is th docume	ntering 0.0 0.0 0.0 0.0 0.0	up investigation of the facility. item (except for \$0 \$0 \$0 \$0 \$0	one-time avoided c \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	osts) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$
Notes for AVOIDED costs	Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3]		he investigation dat	e. Final date is th docume	ntering 0.0 0.0 0.0 0.0 0.0 0.0	-up investigation of the facility.  item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	one-time avoided c \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	osts) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$
A COLONIA DE LA COLONIA DE	Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3]		he investigation dat	e. Final date is th docume	ntering 0.0 0.0 0.0 0.0 0.0 0.0	-up investigation of the facility.  item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	one-time avoided c \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	osts) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$

Screening Date		Docket No. 2008-0059-MLM-E	PCW
	Jeff Dutton dba Dutton Cattle Company	·	Policy Revision 2 (September 2002)
Case ID No.			PCW Revision November 6, 2007
Reg. Ent. Reference No. Media [Statute]			
Enf. Coordinator			
Violation Number	7		
Rule Cite(s)	30 Tex. Admin. Code § 111.201 a	nd Tex. Health & Safety Code § 382.0	85(b)
Violation Description	Failed to prevent the outdoor burning of during an investigation conducted Nov barrels, located behind the loading p	waste within the State of Texas, as down wember 8 and 9, 2007. Specifically, the pens, were being used for burning trast Facility.	ee open
	•	Bas	se Penalty \$10,000
>> Environmental, Property a	ng Human Health Wathx Harm		
Release	Major Moderate Minor	=1	
OR Actual	X	Percent 10%	
Potential			•
>>Programmatic Matrix		STANDARD TO THE STANDARD STAND	· · · · · · · · · · · · · · · · · · ·
Falsification	Major Moderate Minor	7	:
		Percent 0%	, i
Matrix Outdoor but Notes	rning exposes human health and the env which do not exceed levels pr		ollutants
Notes	Willow do not exceed levels g.		
		Adjustment	\$9,000
			\$1,000
Violation Events			
A COLUMN TO A COLU		Number of violation da	ys
		the state of the s	
	daily		
mark only one	quarterly	Violation Ba	se Penalty \$1,000
with an x	semiannual		
	annual.		
	single event x		
	One single event is	recommended.	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1
		<u> 1949 - Mariade Alegera († 1941)</u>	
Economic Benefit (EB) for thi	s violation	Statutory Limit To	st .
Estimated	i EB Amount \$	Violation Final Pe	nalty Total \$1,050
		<del></del>	
	This violatio	on Final Assessed Penalty (adjusted	for limits) \$1,000

	E	conomic	Benefit W	orks	sheet		
Respondent	Jeff Dutton dba	Dutton Cattle Con	ıpany	Tanan Salah Salah Salah	a 1990 - 1991 is his his his construction of the	·	t a labora d'haide (All All (1911) a 1919) a sant as Bayr d'Arbaniana. Teorina d
Case ID No.	1						
Reg. Ent. Reference No.		•					
Media Violation No.	Water Quality 7					Percent Interest	Years of Depreciation
						5.0	15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
ltem Description	No commas or \$						
Section (1991) And the Charlest American Action Conference (1991)	i di manazi i mizana astari.	process of the second second			a construction of above to the	and the second s	
Delayed Costs	1 #5 <u>3 +6 13</u>						
Equipment			,	0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	∴n/a	\$0
Record Keeping System				0.0	- \$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	\$150	8-Nov-2007	15-Dec-2007	0.1	\$1	n/a	\$1
Permit Costs				0.0	\$0	at o sa in/a i o	\$0
Other (as needed)		<u> </u>		0.0	\$0	n/a	\$0
Notes for DELAYED costs  Avoided Costs		nvestigation date a	nd the final date i	s when t	he operations had	open drums. Date r ceased at the facilit one-time avoided o	у.
Disposal		1		0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling		<del>                                     </del>		0.0	\$0	\$0	\$0
Supplies/equipment		1		0.0	\$0	\$0	\$0
Financial Assurance [2]			*******	0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
oniai (as needed)				<u> </u>	11 11 11 11 1 1 1 1 1 1 1 1 1 1 1 1 1		
						Mary Jan Carlon	
	II .	and the state of t			1 1 7 7 7 7 1		
Notes for AVOIDED costs	l .				4 44 42 444		
Notes for AVOIDED costs							
Notes for AVOIDED costs							
Notes for AVOIDED costs  Approx. Cost of Compliance		\$150			TOTAL		\$1

### **Compliance History**

Customer/Respondent/Owner-Operator:

CN602997389

DUTTON, JEFF

Classification: AVERAGE

Regulated Entity: ID Number(s):

RN104913702

**DUTTON CATTLE COMPANY** 

Classification: AVERAGE Site Rating: 3.00

Location:

12708 TEN MILE RD., MASON CO.

Rating Date: 9/1/2007

Repeat Violator: NO

TCEQ Region:

**REGION 08 - SAN ANGELO** 

Date Compliance History Prepared:

January 05, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: January 05, 2003 to January 05, 2008

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Merrilee Hupp

Phone: 512-239-4490

#### Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period?

Yes

2. Has there been a (known) change in ownership of the site during the compliance period?

No

3. If Yes, who is the current owner?

N/A

4. if Yes, who was/were the prior owner(s)?

N/A

5. When did the change(s) in ownership occur?

N/A

### Components (Multimedia) for the Site:

A. Final Enforcement Orders, court judgments, and consent decrees of the state of Texas and the federal government.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

09/18/2006 (512921)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 03/22/2006 (460128)

Self Report? NO

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)

Description: Failure to prevent multiple unauthorized discharges by improperly disposing of approximately 20 head of dead cattle, regarded as a special waste, to the surface of the soil.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 321, SubChapter B 321.47(c)

Description: Failure to locate, construct and manage the necessary waste control facilities, for the liquid and solid wastes generated on site as required under the technical requirements found in 30 Texas Administrative Code (TAC) §321.47 for an owner or operator of an AFO that is not defined or designated as a CAFO.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

1. Participation in a voluntary pollution reduction program.

N/A J. Early compliance.

N/A

Sites Outside of Texas

N/A

## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
JEFF DUTTON DBA DUTTON	§	
CATTLE COMPANY;	§	ENVIRONMENTAL QUALITY
RN104913702	§	

# DEFAULT ORDER DOCKET NO. 2008-0059-MLM-E

At its	agenda, the Texas Commission on Environmental Quality,
("Commission" or "TCEQ")	) considered the Executive Director's Preliminary Report and Petition
filed pursuant to TEX. WATE	R CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE chs. 361 and 382,
and the rules of the TCEQ	), which requests appropriate relief, including the imposition of an
administrative penalty. The	e respondent made the subject of this Order is Jeff Dutton dba Dutton
Cattle Company ("Mr. Dutto	on").

The Commission makes the following Findings of Fact and Conclusions of Law:

### FINDINGS OF FACT

- 1. At the time of the violations, Mr. Dutton owned and operated an animal feeding operation located at 12708 Ten Mile Road, Mason County, Texas (the "Plant").
- 2. The Plant discharged agricultural waste into or adjacent to any water in the state or committed another act that has caused or will cause pollution of any water in the state under the Texas Water Code. The Plant consisted of one or more sources as defined in Tex. Health & Safety Code § 382.003(12). The Plant involved the management and/or the disposal of municipal solid waste and industrial solid waste as defined in Tex. Health & Safety Code ch. 361.
- 3. During an investigation conducted on November 8 and 9, 2007, a TCEQ San Angelo Regional Office investigator documented that Mr. Dutton:
  - a. Failed to have a rain gauge installed on site.
  - b. Failed to maintain a permanent pond marker in the retention control structure ("RCS").

- c. Failed to ensure that the pond liners were protected from animals by fences or other protective devices.
- d. Failed to ensure that all construction and design of the RCS, including embankments and liners, were certified by a licensed Texas professional engineer. Specifically, Mr. Dutton presented a bill from a consulting firm for liner certification to the investigator, but could not produce a liner certification. A capacity evaluation of the RCS had been completed by the Texas State Soil and Water Conservation Board, but it was not sealed by a licensed Texas professional engineer.
- e. Failed to equip the RCS with an irrigation, evaporation, or liquid removal system capable of dewatering the RCS.
- f. Failed to properly dispose of industrial solid waste. Specifically, seven dead cows were documented in different areas at the Plant, including one in the bottom of a muddy depression, indicating potentially ponded water. No cover had been applied to the dead animals, the carcasses emitted a strong odor, and many flies were present. Additionally, several plastic oil containers, an oil filter, and at least three animal carcasses had been disposed of in a pit northeast of an open trailer at the Plant. The trailer also contained the remains of a dead animal.
- g. Failed to prevent the outdoor burning of waste. Specifically, three open barrels, located behind the loading pens, were being used for burning trash.
- 4. Mr. Dutton received notice of the violations on or about December 5, 2007.
- 5. The Executive Director recognizes that Mr. Dutton ceased operating the Plant on December 15, 2007.
- 6. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Jeff Dutton dba Dutton Cattle Company" (the "EDPRP") in the TCEQ Chief Clerk's office on May 13, 2008.
- 7. By letter dated May 13, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Dutton with notice of the EDPRP. According to the return receipt "green card," Mr. Dutton received notice of the EDPRP on May 29, 2008, as evidenced by the signature on the card.

8. More than 20 days have elapsed since Mr. Dutton received notice of the EDPRP, provided by the Executive Director. Mr. Dutton failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

### CONCLUSIONS OF LAW

- 1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. Dutton is subject to the jurisdiction of the TCEQ pursuant to Tex. Water Code chs. 7 and 26, Tex. Health & Safety Code chs. 361 and 382, and the rules of the Commission.
- 2. As evidenced by Finding of Fact No. 3.a., Mr. Dutton failed to have a rain gauge installed on site, in violation of 30 Tex. ADMIN. CODE § 321.47(e)(5).
- 3. As evidenced by Finding of Fact No. 3.b., Mr. Dutton failed to maintain a permanent pond marker in the retention control structure ("RCS"), in violation of 30 Tex. ADMIN. CODE § 321.47(e)(6).
- 4. As evidenced by Finding of Fact No. 3.c., Mr. Dutton failed to ensure that the pond liners were protected from animals by fences or other protective devices, in violation of 30 TEX. ADMIN. CODE § 321.47(e)(7).
- As evidenced by Finding of Fact No. 3.d., Mr. Dutton failed to ensure that all construction and design of the RCS, including embankments and liners, were certified by a licensed Texas professional engineer, in violation of 30 Tex. ADMIN. Code §§ 321.47(d)(3) and (5) and 321.38(e)(2). Specifically, Mr. Dutton presented a bill from a consulting firm for liner certification to the investigator, but could not produce a liner certification. A capacity evaluation of the RCS had been completed by the Texas State Soil and Water Conservation Board, but it was not sealed by a licensed Texas professional engineer.
- 6. As evidenced by Finding of Fact No. 3.e., Mr. Dutton failed to equip the RCS with an irrigation, evaporation, or liquid removal system capable of dewatering the RCS, in violation of 30 Tex. Admin. Code § 321.47(d)(8).
- 7. As evidenced by Finding of Fact No. 3.f., Mr. Dutton failed to properly dispose of industrial solid waste, in violation of 30 Tex. ADMIN. Code § 335.4. Specifically, seven dead cows were documented in different areas at the Plant, including one in the bottom of a muddy depression, indicating potentially ponded water. No cover had been applied to the dead animals, the carcasses emitted a strong odor, and many flies were present. Additionally, several plastic oil containers, an oil filter, and at least three animal carcasses had been disposed of in a pit northeast of an open trailer at the Plant. The trailer also contained the remains of a dead animal.

- 8. As evidenced by Finding of Fact No. 3.g., Mr. Dutton failed to prevent the outdoor burning of waste, in violation of 30 Tex. ADMIN. CODE § 111.201 and Tex. Health & Safety Code § 382.085(b). Specifically, three open barrels, located behind the loading pens, were being used for burning trash.
- 9. As evidenced by Finding of Fact Nos. 6 and 7, the Executive Director timely served Mr. Dutton with proper notice of the EDPRP, as required by Tex. Water Code § 7.055 and 30 Tex. Admin. Code § 70.104(a).
- 10. As evidenced by Finding of Fact No. 8, Mr. Dutton failed to file a timely answer to the EDPRP, as required by Tex. Water Code § 7.056 and 30 Tex. Admin. Code § 70.105. Pursuant to Tex. Water Code § 7.057 and 30 Tex. Admin. Code § 70.106, the Commission may enter a Default Order against Mr. Dutton and assess the penalty recommended by the Executive Director.
- 11. Pursuant to Tex. Water Code § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Dutton for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
- 12. An administrative penalty in the amount of nine thousand nine hundred seventy-five dollars (\$9,975.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in Tex. Water Code § 7.053.
- 13. Tex. Water Code §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

### ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Mr. Dutton is assessed an administrative penalty in the amount of nine thousand nine hundred seventy-five dollars (\$9,975.00) for violations of the Texas Water Code, the Texas Health & Safety Code, and the rules of the TCEQ. The payment of this administrative penalty and Mr. Dutton's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The

administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Jeff Dutton dba Dutton Cattle Company; Docket No. 2008-0059-MLM-E" to:

Financial Administration Division, Revenues Section Attention: Cashier's Office, MC 214 Texas Commission on Environmental Quality P.O. Box 13088 Austin, Texas 78711-3088

- 2. All relief not expressly granted in this Order is denied.
- 3. The provisions of this Order shall apply to and be binding upon Mr. Dutton.
- 4. If Mr. Dutton fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Dutton's failure to comply is not a violation of this Order. Mr. Dutton shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Dutton shall notify the Executive Director within seven days after Mr. Dutton becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
- 5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Dutton shall be made in writing to the Executive Director. Extensions are not effective until Mr. Dutton receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
- 6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Mr. Dutton if the Executive Director determines that Mr. Dutton has not complied with one or more of the terms or conditions in this Order.
- 7. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
- 8. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 Tex. ADMIN. CODE § 70.106(d) and Tex. Gov't Code § 2001.144.

Jeff Dutton dba Dutton Cattle Company Docket No. 2008-0059-MLM-E Page 6

### SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

### AFFIDAVIT OF MARY R. RISNER

STATE OF TEXAS 

COUNTY OF TRAVIS

"My name is Mary R. Risner. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Jeff Dutton dba Dutton Cattle Company" (the "EDPRP") was filed with the Office of the Chief Clerk on May 13, 2008.

The EDPRP was mailed to Mr. Dutton at his last known address on May 13, 2008, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Mr. Dutton received notice of the EDPRP on May 29, 2008, as evidenced by the signature on the card.

More than 20 days have elapsed since Mr. Dutton received notice of the EDPRP. Mr. Dutton failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference."

Mary R. Risner, Attorney

Office of Legal Services, Litigation Division

Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Mary R. Risner, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this // day of August, A.D., 2008.

Notary Signature

Margaret Jackson
Notary Public
State of Texas
My Cummission Expires
OCTOBER 06, 2009